UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/090,071	06/03/98	MILLER R	60.115344

TM02/0712

BROOKS & KUSHMAN P.C.
1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

EXAMINER	
NGUYEN, K	
ART UNIT	**PAPER NUMBER**
2674	13

DATE MAILED: 07/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/090,071	MILLER, ROBIN MIHEKUM	
	Examiner	Art Unit	
	Kevin M. Nguyen	2674	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *5-9,12,13,16 and 17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5-9, 12, 13, 16 and 17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
18) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other: .

DETAILED ACTION

1. The amendment filed on 4/26/2001 is entered. The rejection of claims 5-9, 12, 13, 16 and 17 are maintained.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 5-9, 12, 13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts (5,005,009) in view of Tanaka et al. (6,081,254).

4. As to claims 5 and 12, Roberts teaches a heads-up display system for multiple object viewing which includes the lights 13 at predetermined positions relative to the windshield 10 (fig.1, col. 5, lines 25-38), a rheostat 33 allows manual intensity control to suit the background lighting in contrast in the environment (see col. 7, lines 67-68 to col. 8, line 1), the and a camera (optical detector) (col. 6, line 11). Therefore, Roberts teaches all the claimed limitations of claim 5, except for a control coupled to the optical detector for controlling the contrast of the heads-up display in response to the environmental image approaching the moving vehicle.

However, Tanaka et al. teaches an input device such as camera system (col. 11, line 38), 1E indicates a control for contrast and brightness, 2E a resistor, and 3E a connecting line to the detector (see fig.14, col. 14, lines 38-42) to detect variations in the use environment of the imaging apparatus (col. 14, lines 66-67). It would have been

obvious to provide a camera system taught by Tanaka in a heads-up display of Roberts' system because this would allow the driver to view easily the environment image approaching the moving vehicles. It would have been obvious to a person of ordinary skill in the art to recognize that Tanaka discloses a control coupled to the optical detector for controlling the contrast of the heads-up display in response to the environment image approaching the moving vehicle as claimed (by virtue of the operation described at col. 14, lines 37-67).

4. As to claims 6-7, Tanaka et al. teaches the keyboard 315 are connected to the controller 104 (col. 8, line 5) to control selects and appropriate heads-up display dependent upon said captured image and appropriate pattern for the heads-up display dependent upon said captured image as claimed.

5. As to claim 8, Tanaka et al. teaches a sensor 106 for detecting the displayed color on the display 103 (col. 6, lines 26-27).

6. As to claims 9, 13, 16 and 17, Roberts teaches ray of light which is emitted from the instrument 14 passes through a windscreen 10. Under these conditions, the primary or desired image 16 is reflected off the surface nearest to the observer 11 and along the line of sight 16A (in this case the interface between the air and the predetermined tint field 12 which has been applied to the interior surface of the windscreen 10 or made integral with this composition) (col. 6, lines 40-48). The small tint field 12, which control directly the reflected light of line of sight 16 A, may be smaller than the total area of the windscreen 10 (see figure 1 and 3, column 5, lines 51-

54). Accordingly, small tint field 12 corresponds to small portion and surface treatment as claimed.

Response to Argument

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Tanaka et al. teaches an input device such as camera system (col. 11, line 38), 1E indicates a control for contrast and brightness, 2E a resistor, and 3E a connecting line to the detector (see fig.14, col. 14, lines 38-42) to detect variations in the use environment of the imaging apparatus (col. 14, lines 66-67). It would have been obvious to provide a camera

system taught by Tanaka in a heads-up display of Roberts' system because this would allow the driver to view easily the environment image approaching the moving vehicles. It would have been obvious to a person of ordinary skill in the art to recognize that Tanaka discloses a control coupled to the optical detector for controlling the contrast of the heads-up display in response to the environment image approaching the moving vehicle as claimed (by virtue of the operation described at col. 14, lines 37-67).

For these reasons, the rejections based on Roberts and Tanaka have been maintained.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Nguyen whose telephone number is 703-305-6209. The examiner can normally be reached on MON-FRI from 9:00-5:00 with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard A Hjerpe can be reached on 703-305-4709. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-306-0377 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

Kevin M. Nguyen
Examiner
Art Unit 2674

KN
July 10, 2001

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600